IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 5036 of 2006(Y)

PETITIONER:

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1. GOOD SHEPHERED EDUCATIONAL AND CHARITABLE TRUST, CHUNGATHARA, MALAPPURAM DISTRICT REPRESENTED BY ITS TRUSTEE, SRI.GEORGE PHILIP, S/O.GEORGE, KALARIKKAL HOUSE, CHUNGATHARA, PALUNDA.

2. GEORGE PHILIP, S/O.GEORGE, KALARIKKAL HOUSE, CHUNGATHARA, PALUNDA, NILAMBUR.

BY ADV. GOOD SHEPERED EDN. & CHARITABLE

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT, THIRUVANANTHAPURAM.

2. THE DIRECTOR, CENTRAL BUREAU OF INVESTIGATION, THIRUVANANTHAPURAM.

3. THE SUB INSPECTOR OF POLICE, EDAKKARA POLICE STATION, NILAMBUR.

BY ADV. SRI.S.SREEKUMAR, SC FOR CBI
GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

WP(C).No. 5036 of 2006(Y)

EXTP1: TRUE COPY OF THE JUDGMENT IN S.T.NO.3220/1997 OF THE JUDICIAL FIRST CLASS MAGISTRATE'S COURT, NILAMBUR DATED 20.12.03.

EXT.P2: TRUE COPY OF THE ORDER IN S.T.NO.8217/2001 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, NILAMBUR DATED 21.3.02.

EXT.P3: TRUE COPY OF THE NEWS ITEM APPEARED IN MALAYALAM MANORAMA DAILY DATED 9.12.05.

EXT.P4: TRUE COPY OF THE NOTICE DATED NIL PUBLISHED BY AN ANONYMOUS PERSON.

/TRUE COPY/

P.A.TO JUDGE

R.BASANT, J

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W.P.(C). No.5036 Of 2006

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Dated this the 1st day of August, 2007

JUDGMENT

This application is filed by the petitioners - Good Shepherd Educational and Charitable Trust, Malappuram and its trustee under Article 226 of the Constitution of India. The nature of the prayers made in this petition is a little odd and I extract the same below:

> A) issue a writ of mandamus or other appropriate writ, direction or order, directing an independent agency preferably, the Central Bureau of Investigation to conduct an enquiry/investigation into the incidents narrated herein above.
>
> B) Grant such other relief or relief's that may be prayed for or that are found just and proper in the nature and circumstances of the case.

2. The averments in the petition show that various proceedings have been initiated against the petitioners resulting in endless harassment and difficulties to them. The petitioners apprehend that there are some persons working behind the scenes with the intention to vex and harass the petitioners. It is in these circumstances prayers

A and B above are raised.

3. Notice was given to the learned Government Pleader. Statements have been filed. It is submitted that there is absolutely no necessity to direct any further investigation by any such agency and that all steps necessary to assure that justice is rendered to the petitioner have been taken by the respondents.

4. Certain specific allegations are raised. First of all it is contented that there was an incident at the local telephone exchange in which false allegations were raised against the petitioners. The learned Public Prosecutor points out that it is true that such allegations were raised, but the Police, after due enquiry on it, had come to the conclusion that such action need not be perused and accordingly such proceedings were closed by the Police. The learned Public Prosecutor submits and I am satisfied that no further steps need at all taken in respect of that case.

5. The second allegation relates to S.T.No.3220/97. That case has been registered against a petitioner on the basis of a complaint filed by a teacher. The brother of that teacher was an employee of the telecom department and it is the contention of the petitioners that the said allegations were raised because of the relationship of the teacher with the said employee of the telecom department. The said case has

already been tried and the petitioner has been found not guilty and acquitted.

6. The learned Government Pleader submits and I am satisfied that it is not necessary to reopen the said proceedings and issue any directions relating to that case.

7. The third and fourth instances relate to ST.No.8217/2001 and C.C.No.225/03 both registered against the 2nd petitioner. In the first one the allegation is that the petitioner had obstructed Police/Revenue officials who went to his institution to attach the movables. In the second one, allegation is that father of a student of the school run by the petitioner was assaulted by the 2nd petitioner. The trial in both the cases has completed. The 2nd petitioner has been found not guilty and acquitted in both those cases. I am satisfied, in these circumstances that as rightly contended by the learned Government Pleader, that it is not necessary at all to reopen the said proceedings and issue any directions in respect of those proceedings.

8. Two more cases remain against the 2nd petitioner . The first one is the one which is pending as ST.No.1887/06. That relates to the allegation that the petitioner was responsible for rash and negligent riding of a two wheeler. Investigation is over. Final report has already been filed. Cognizance has been taken. The petitioners

appear to have a contention that the place where the incident allegedly took place is not a public road and that the allegation therein is false. He has a further contention that no such incident had taken place and he did not ride the vehicle at all. The case diary has been made available for my perusal. I have perused the case diary and in the facts and circumstances of the case I find no reason to quash the proceedings or to issue any directions relating to any further investigation in that case. The petitioner, who appears in person submits passionately that he is prepared to submit himself for a polygraph test to ascertain truth.

9. It is for the petitioner to raise all defences which he wants to raise in the said proceedings before the learned Magistrate and the learned Magistrate to consider all such defences and pass appropriate orders.

10. The next and last proceeding pending before the courts is C.C.No.225/2003 against the 2nd petitioner. The allegation in that case is that the 2nd petitioner had assaulted a student. According to the petitioner he has valid reasons as the person responsible for running an educational institution to take steps to scold such student. The said student is alleged to have committed serious indiscretions. The allegation is that the student was assaulted without valid reasons.

Whether the conduct of the petitioner had crossed the rubicon of the legitimate chastisement and whether it amounts to wilful causing of hurt is a matter to be decided in the trial in that case. I find absolutely no reason to interfere with the the further progress of the said proceedings.

11. The petitioner has appeared in person. He has made lengthy and detailed submissions. He has certain disputes with the telecom department and has been harassed by the officials of the said department. He has a further grievance that the local authority and its officials are arrogantly trying to claim right over the private way through his school. It is for the petitioner to seek releif from the civil court to get such grievances redressed.

12. To sum up, after having anxiously considered all the grievances raised by the petitioner, I am of the opinion no circumstances exists to issue any directions to any of the respondents in respect of such grievances raised. This petition is in these circumstances fails and is hence dismissed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE